



Stanz- und Biegeteile nach Zeichnung
Distanzhülsen / Buchsen aus Band gerollt
Tellerfedern DIN 2093 / Spannscheiben DIN 6796
Zertifiziert nach ISO / TS 16949

General Terms and Conditions of Purchase

Date: April 2016, Version A

§ 1 Applicability of the General Terms and Conditions of Purchase

After placing the first order these General Terms and Conditions of Purchase shall also apply to all future deliveries (hereinafter referred to as "contractor") supplied to HOBERG Industrietechnik GmbH & Co. KG, 57439 Attendorn (hereinafter referred to as "client" or "purchaser").

§ 2 Order and confirmation of order

- (1) Orders are binding unless the contractor objects in writing within three working days after receipt of order. If the contractor does not accept the order within two weeks after receipt, the purchaser shall be entitled to cancel the order.
- (2) Any deviations, modifications or supplements to the order by means of the order confirmation shall only become an integral part of the contract after written confirmation by the purchaser. The purchaser shall be bound by the General Terms and Conditions of the contractor to the extent that these are consistent with the Terms and Conditions of the purchaser or approved in writing by the purchaser. The acceptance of deliveries or services as well as payments shall not signify consent.

§ 3 Performance period, contractual penalty in case of non-performance

- (1) The deliveries or supplementary performances shall be deemed timely upon the receipt by the receiving site specified by the purchaser, the deliveries involving installation or assembly as well as the delivery of services shall be deemed timely upon their acceptance.
- (2) Subject to other proof, the values determined by our incoming inspection are applicable to the number of items, weights and measures.
- (3) Should a delay in any deliveries or services or supplementary performances become evident, the purchaser shall be notified immediately and its decision shall be obtained. Any costs that may arise due to delays in service performance at the purchaser's customer shall be borne by the supplier.

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	Volksbank	BLZ 447 615 34	Konto-Nr.: 2300986800	BIC: GENODEM1NRD	IBAN: DE47 4476 1534 2300 9868 00

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§ 4 Force majeure

Force majeure, labour dispute, operational disruptions beyond one's control, disturbances, governmental measures and other unavoidable events shall entitle us to withdraw wholly or partially from the contract.

§ 5 Transfer of risk, shipment, place of performance

- (1) In case of deliveries involving installation or assembly and in case of services, the risk shall be transferred upon acceptance; in case of deliveries without installation or assembly, the risk shall be transferred upon receipt at the receiving site specified by the purchaser.
- (2) Unless otherwise agreed, the shipping and packaging costs shall be deemed covered by the agreed remuneration. For pricing ex works or ex warehouse of the contractor, delivery shall be carried out at the lowest possible cost, unless the purchaser has prescribed a specific mode of transport. Additional costs incurred due to failure to comply with any forwarding instruction shall be borne by the contractor. In the event that the prices are determined free recipient, the purchaser can also determine the mode of transport. Additional costs which are necessary for the accelerated transportation to meet delivery dates shall be borne by the contractor.
- (3) Each delivery shall be accompanied by a packing list or a delivery note specifying the content and the complete order identification, especially order number, HOBERG material no., designation pursuant to order, total quantity, quantity per unit, number of units, batch, ship-to address.
- (4) The transportation costs will only be borne by the purchaser, if expressly agreed upon.
- (5) Place of performance is 57439 Attendorn, unless otherwise agreed upon.

§ 6 Transfer of ownership

Unless otherwise agreed upon, ownership of the goods delivered is transferred to the purchaser upon handover at the place of performance, excluding any kind of reservation of ownership.

§ 7 Invoices

All invoices shall be issued in a verifiable form and include our order number, order item number, HOBERG material number, designation pursuant to order, total quantity, quantity per unit, unit prices per order item, packaging costs and transportation costs in case of delivery free place of use, payment terms and bank details. The statutory regulations and the generally accepted accounting principles have to be complied with.

Copies of invoices have to be marked as duplicates.

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§ 8 Payments

- (1) Unless otherwise agreed upon, payments will be made within 14 days with a 3 % cash discount; in the event of payments within 30 days, the settlement will be effected without any deduction from the agreed remuneration.
- (2) The payment period shall begin as soon as goods or services have been delivered in full and the properly issued invoice has been received. Where the contractor is required to provide material certificates, test reports, quality documents or other documentation, the receipt of such documents shall also be required before the delivery of goods or services are deemed complete. A discount is also permitted if the purchaser offsets or withholds payments in appropriate amounts due to defects; the payment period shall begin upon complete removal of the defects.
- (3) Where the contractor is a corporation, the purchaser shall only be in default of payment if he fails to effect payment after receipt of a reminder from the contractor after the due date for payment has expired.
- (4) The payment shall not imply acknowledgment of deliveries or services as meeting contractual requirements.

§ 9 Incoming inspection

- (1) Upon delivery, the purchaser shall immediately inspect the goods for externally visible transport damages or defects and their compliance with the quantity and type ordered.
- (2) Any defects detected by the purchaser during the aforementioned inspection shall be notified to the contractor promptly upon detection.
- (3) For any defects detected at a later point in time, the purchaser shall make a complaint within a period of one month after becoming aware of that defect.
- (4) With respect to incoming inspections other than as described herein, the purchaser shall have no further obligations and is exempted from further inspection and complaint obligations, especially as set forth under § 377 HGB.

§ 10 Warranty

- (1) The contractor warrants that the products are free from defects.
- (2) Any defects which are identified before or during the transfer of risk or during the period of limitation as set forth in § 10 (9) and § 10 (10) shall be either removed or replaced, at the discretion of the

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purchaser, with a non-defective delivery by the contractor at its expense. The purchaser shall exercise its option at its own reasonable discretion.

- (3) Should the contractor fail to carry out supplementary performance within a reasonable period set by the purchaser, the purchaser shall be entitled to wholly or partially withdraw from the contract without having to pay a compensation or to demand a reduction of the price or to carry out, or arrange to be carried out, the necessary rework or replacement and to claim damages instead of performance. § 281 sect. 2 and § 323 sect.2 BGB shall remain unaffected.
- (4) There is no need for fixing a time limit for supplementary performance if the purchaser has a particular interest in immediate supplementary performance to avoid a default by the client or other urgency, and if it is not reasonable for the purchaser to request the contractor to remove the defect within a reasonable time.
- (5) The aforementioned claims become statute-barred one year after the notification of the defect, but in no case prior to expiry of the period of limitation as stated in § 10.
- (6) Further or other statutory claims shall remain unaffected.
- (7) If the contractor, within the scope of supplementary performance, replace or rework goods, the time limits mentioned in § 10 (9) and § 10 (10) shall start to run again.
- (8) The costs and risks for returning defective goods shall be borne by the contractor.
- (9) Claims to material defects become statute-barred within three years, unless a longer period is prescribed by law.
- (10) Claims to legal defects become statute-barred within five years, unless a longer period is prescribed by law.
- (11) The statutory period of limitation shall begin with the transfer of risk § 5 (1). Upon delivery to locations where the purchaser is operating outside its premises, the statutory period of limitation shall begin with the acceptance by the purchaser's client, but not later than one year after transfer of risk.
- (12) All costs incurred as a result of the defective delivery of the contractual item, in particular costs for transportation, infrastructure, labour, installation or removal, or costs for incoming inspection beyond the usual scope, shall be borne by the supplier.

§ 11 Verification of defects of title / duty of notification

The delivery of products free of defects of title shall be deemed to be part of the essential contractual obligations of the purchaser. Therefore, the contractor undertakes to verify if the deliveries/services are free

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from defects of title and to notify the purchaser of any conflicting property rights. In the event of any breach of these obligations, the regular statutory limitation period shall apply.

§ 12 Subcontracting to third parties

Subcontracting to third parties without the written consent of the purchaser is not permitted and entitles the purchaser to wholly or partially withdraw from the contract and to claim damages.

§ 13 Supply of materials

- (1) Any materials supplied shall remain the property of the purchaser and shall be stored separately free of charge and shall be designated and managed as property of the purchaser. The materials supplied may only be used for orders placed by the purchaser. In case of culpable deterioration or loss of materials supplied, the contractor shall be liable for their replacement, implying that he has also to accept liability for ordinary negligence. The same applies to the provision of order-related materials.
- (2) Any processing or transformation of the materials shall be performed on behalf of the purchaser. The latter shall immediately acquire ownership of the new or transformed item. Should this not be possible for legal reasons, the purchaser and the contractor agree that the purchaser shall acquire ownership of the new item at all times of processing or transforming. The contractor shall hold the new item free of charge on behalf of the purchaser with due care and diligence of a prudent businessman.
- (3) The contractor shall not be entitled to retain property of the materials supplied. The contractor is obliged to ensure on first demand that the materials supplied are made available free of charge for pickup by the purchaser during normal working hours.

§ 14 Tools, moulds, samples etc.

- (1) Tools, moulds, samples, models, profiles, drawings, standard sheets, mechanicals and templates provided by the purchaser, as well as objects produced based thereon, may not be transmitted to third parties nor used for any purpose other than the contractual purpose without the prior written consent of the purchaser. They shall be protected against unauthorized inspection or use. Subject to any further right, the purchaser may require surrender thereof if the contractor is in breach of these obligations.
- (2) All items provided by the purchaser pursuant to § 14 (1) shall be clearly marked by the contractor as the property of the purchaser.
- (3) The contractor shall refrain from disclosing any information obtained from the purchaser to third parties, unless that information is or becomes generally or, by other means, rightfully known to him. To the extent that the purchaser has agreed to any subcontracting to third parties, he shall obligate such third parties in writing accordingly.

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- (4) The contractor shall not be entitled to retain property of the tools, moulds, samples, profiles, drawings, standards, mechanicals and templates provided by the purchaser. The contractor is obliged to ensure on first demand that the tools, moulds, samples, profiles, drawings, standard sheets, mechanicals and templates provided by the purchaser are made available free of charge for pickup by the purchaser during normal working hours.
- (5) In addition, the individual stipulations of the tooling agreement shall apply.

§ 15 Non-disclosure

- (1) The contractor is obliged to regard all commercial and technical details concerning the order as business secret and to handle them strictly confidential. He shall obligate his subcontractors accordingly.
- (2) Any documents provided by us to the contractor, including samples, drawings, models, data etc., may not be surrendered or otherwise be made available to unauthorized third parties.
- (3) Products which have been manufactured based on documents developed by HOBERG, including drawings, models etc., or based on confidential information of HOBERG, or using tools of HOBERG or tools modelled thereon, may not be used by the contractor or offered or supplied to third parties.
- (4) On first demand, the contractor shall provide evidence to the purchaser that all surrendered documents have been destroyed and that electronic data received – notwithstanding on which data media (especially backup media) – has been permanently deleted.
- (5) In addition, the individual stipulations of the non-disclosure agreements shall apply.

§ 16 Quality and documentation

- (1) The supplier shall ensure that his deliveries comply with the generally accepted technical practice, safety regulations and the technical data agreed upon. Any modifications of the delivery item require the prior written consent of the purchaser. The supplier shall permanently control the quality of the delivery items. The contracting parties shall inform each other about the possibilities of quality improvement without request.
- (2) In the absence of any firm agreement between the supplier and the purchaser regarding the type and scope of testing and testing means and methods, the purchaser will, by request of the supplier and within the scope of his know-how, experience and capabilities, discuss the testings with the supplier in order to determine the level of testing technology as respectively required. If requested, the purchaser shall also inform the supplier about the applicable safety regulations.

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§ 17 Work rules, accidents

Persons who, in performance of the contract, carry out works on the business premises of the purchaser or business premises of third parties designated by the purchaser, have to observe the regulations of the respective work rules. All and any claims for damages of the contractor against the purchaser are excluded in the event of accidents involving persons on the business premises, unless such damages have been caused by an intentional or grossly negligent breach of duty of the legal representative or agents of the purchaser.

§ 18 Assignment of claim

The assignment of a claim is only permitted with the written consent of the purchaser.

§ 19 Product-oriented environmental protection, duty of declaration, hazardous material

- (1) If the contractor delivers legally admissible goods which are, however, due to statutory regulations subject to substance restrictions and/or information requirements (e.g. REACH, RoHS) the contractor shall declare such substances in a reasonable format provided by the purchaser not later than the date of the first delivery of products. The foregoing shall only apply with respect to laws which are applicable at the registered office of the contractor or purchaser or at the receiving location stated by the purchaser.
- (2) If the delivery contains materials that have to be classified as hazardous in conformity with international regulations, the purchaser shall be notified by the contractor not later than the date of order confirmation in a manner agreed upon between the contractor and the purchaser.

§ 20 Regulations on export control and foreign trade data

- (1) The contractor has to comply with all requirements of the applicable national and international foreign trade regulations ("Foreign Trade Legislation"). The contractor shall notify the purchaser in writing immediately, but at the latest two weeks after placing the order, about all information and data which the purchaser needs to comply with all applicable foreign trade regulations governing the export, import and re-export, particularly with regard to:
 - All applicable export list numbers including Export Control Classification Number according to U.S. Commerce Control List (ECCN).
 - The commodity code according to the commodities chart of the foreign trade statistics and the HS (Harmonized System) Code.
 - Country of origin (non-preferential origin) and, as requested by the purchaser, supplier declarations as to the preferential origin (European suppliers) or preference certification (non-European suppliers).

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- (2) If the contractor violates his obligations stipulated under § 21 (1), all expenses and costs thereby incurred by the purchaser shall be borne by the contractor, unless the contractor is not responsible for the breach of duty.

§ 22 Proviso clause

The purchaser's obligation to fulfill this agreement is subject to the proviso that the fulfillment is not prevented by any impediments arising out of national or international foreign trade regulations or any embargos and/or other sanctions.

§ 23 Place of jurisdiction, applicable law

- (1) The law of the Federal Republic of Germany shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- (2) Place of jurisdiction is Attendorn.
- (3) If any provision of these conditions or further agreements is or becomes invalid, the validity of the remaining provisions of the contract shall remain unaffected.

Modification history

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